

Application No 10/751,533

Page 5 of 13

Amendment dated: March 7, 2005

Reply to Office Action of October 5, 2004

BEST AVAILABLE COPY**Amendments to the Drawings**

Attached are sheets replacing all the drawings currently on file. Replacement Sheets 1 to 4, containing Figures 1 to 7, are attached at the Appendix and replace original sheets 1 to 7.

The drawings have been replaced with formal drawings. The drawings are identical in content to the original drawings.

Attachment: Replacement Sheets attached as **Appendix A**.

Application No. 10/751,533

Amendment dated March 7, 2005

Reply to Office Action of October 5, 2004

Page 6 of 13

Remarks/Arguments

A petition for a two-month extension of time is enclosed under separate cover.

The Examiner objected to the oath because the appropriate box was not checked next to the priority document. In response, Applicant encloses herewith a Supplemental Declaration and Power of Attorney which correctly includes a check in the box under "Priority Claimed". Applicant requests that the Examiner acknowledge the claim to foreign priority 35 U.S.C. 119(a), based on Canadian Patent Application No. 2,414,679, filed January 6, 2003

Claims 1, 11, 12, 14, and 21 - 29 now stand in the application. Claims 2 - 10, 13, and 15 - 19 have been cancelled. Claims 1, 11 and 12 have been amended. New dependent claims 21 - 29 have been added.

The claims have been amended to more clearly recite the pivot about which the shaft of the present invention pivots. The amended claims also recite a position lock releasably securing the shaft in the substantially vertical position relative to the saddle. Support for these amendments is found throughout the specification and drawings as filed, particularly in paragraph [0025] (claims 11 and 12), paragraph [0027] (claims 22, 26 and 28), paragraph [0028] (claims 1, 20 - 26 and 28) and paragraph [0030] (claims 27 and 29).

The Examiner objected to the drawings because elements corresponding to reference characters 10 and 14 in Figures 4 and 5 were not clearly identified. In response, Applicant submits formal drawings on the attached Replacement Sheets. Applicant submits that the replacement drawing sheets are compliant with 37 CFR 1.121(d) and withdrawal of the Examiner's objection is respectfully requested.

The Examiner rejected claims 1 to 5, 9, 11 - 16, and 19 as being anticipated by U.S. Patent No. 5,918,611 (Amato '611). Claims 2 - 5, 9, 13, 15, 16 and 19 have been cancelled, and the rejections thereto are now moot. Applicant submits that claims 1, 11, 12 and 14, as amended, are clearly distinguished from Amato '611 for the following reasons.

The animal umbrella of Amato '611 comprises a saddle, saddle attaching apparatus, a vertical shank, vertical shank attaching apparatus, and a foldable canopy. The vertical shank has a proximal and distal end, the proximal end being detachably mounted to the saddle. The vertical shank is releasably attached at a vertical shank-retaining block 76 on the saddle. As described in column 5, lines

Application No. 10/751,533
Amendment dated March 7, 2005
Reply to Office Action of October 5, 2004

Page 7 of 13

36-37 and 49-52, columns 6-7, lines 37 to 21, and in Figures 6 and 9 to 11 of Amato '611, the vertical shank 32 contains a rod 54 that traverses the base of the shank 32 perpendicularly. This assembly is introduced into the retaining block 76. The retaining block 76 has a vertical bore 81 and a horizontal throughbore 77. There is a horizontal slot 79 which tapers downwardly and opens into the horizontal throughbore 77. In order to attach the shank to the saddle, the shank 32 is introduced into the vertical bore 81 and the rod 54 is introduced into the horizontal slot 79. By applying a downward pressure onto the shank, the bottom of the slot 79 is forced open by the pressure of the rod 54, and the rod 54 slips into the horizontal throughbore 77, and the shank moves down to the bottom of the vertical bore. This arrangement allows the vertical shank to be securely held in a vertical manner when the canopy is used. The tubular vertical shank in this arrangement has no possibility for pivoting, since the shank is surrounded on substantially all sides by the walls of the vertical bore.

To remove the vertical shank from the saddle of Amato '611, the vertical shank proximal end is pulled up, forcing the rod 54 into the slot 79 and then the shank can be removed from the retaining block 76.

As described in Amato '611 at column 8, lines 30 to 40, the folded canopy may be stored using a pair of canopy storing straps, by strapping the folded canopy onto the side of the animal's body. Figures 18 and 19 of Amato '611 illustrate how the vertical shank and canopy are attached to the animal.

By contrast, the present invention is directed to, and recites, an animal umbrella with a shaft, the second end of which is pivotally connected to the saddle. To store the canopy, the canopy is simply folded down, the position lock is released, and the shaft is pivoted downward into a horizontal position relative to the saddle. The folded canopy and shaft lie on the saddle down the length of the animal's back. Thus, the shaft is pivoted while still attached to the saddle. Amato '611 neither teaches nor suggests this pivoting means.

This arrangement provides a substantial advantage to the user. Namely, there are fewer steps required to collapse the canopy: the user is not required to first detach the canopy from the saddle and then attach it elsewhere to the harness using two straps. Instead, it is essentially a one-step process to fold down and store the canopy. In fact, only one hand is required to fold down the canopy. With the harness described in Amato '611, one would need two hands to attach the folded down canopy to the animal using the harnesses. It is much easier for a user of the present invention to store the canopy, especially if the user is loaded down with parcels, etc. Another advantage is that the canopy stays attached

Application No. 10/751,533

Amendment dated March 7, 2005

Reply to Office Action of October 5, 2004

Page 8 of 13

to the saddle, making it less likely that the canopy will be misplaced. Yet another advantage is that the canopy is stored along the centre of the back of the animal, meaning that the folded canopy will provide a balanced load on the animal's back, making it more comfortable for the animal.

The present invention further differs from Amato '611 with respect to the attachment of the saddle to the animal. Amato '611 describes a saddle for attachment to the harness of the animal. In contrast, the present invention is directly attached to the animal, bypassing the need to purchase a harness.

Therefore, Applicant respectfully submits that amended claims 1, 11, 12 and 14, and their respective dependent claims are clearly patentable in view of Amato '611 and requests withdrawal of the rejection under 37 USC 102(b).

The Examiner rejected claims 5 to 8 on the grounds that the subject matter recited therein would have been obvious under 35 USC 103(a) having regard to Amato '611 in view of U.S. Patent No. 6,539,898 (Gatto '898). Claims 5 - 8 have been cancelled, and the objections thereto are now moot.

The Examiner rejected claim 10 under 35 USC 103(a) as being unpatentable over Amato '611. Claim 10 has been cancelled, and the rejection thereof is now moot.

No fees are believed due for this submission. **However, the Commissioner is hereby authorized to charge any additional fees and credit any over payments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.**

It is submitted that this application is now in condition for allowance, and action to that end is respectfully requested.

Respectfully submitted,
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1. Supplemental Declaration and Power of Attorney
2. Appendix A (Replacement Sheets 1 to 4, Figures 1 to 7)

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